



The Attorney General of Texas

December 28, 1979

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Mr. Evans N. Wentz
Executive Director
State Commission for the Blind
P. O. Box 12866
Austin, Texas 78711

Opinion No. MW-120

Re: Whether the Blind
Commission may maintain certain
funds outside the state treasury.

Dear Mr. Wentz:

You inquire about the following rider to your appropriation which is included in the current appropriations act:

Funds accruing to the Commission for the Blind from the operation of food vending facilities shall be deposited to the State Treasury and such funds are hereby appropriated.

General Appropriations Act, Acts 1979, 66th Leg., ch. 843, art. II. You ask whether you must comply with this provision. The funds at issue derive from food vending machines operated by blind people on federal property. Federal law provides authorization for this program and directs the use of funds set aside from the net proceeds of the operation. 20 U.S.C. §§ 107, 107b; 41 C.F.R. §§ 101-20.200 - 101-20.209. The Blind Commission administers the program for the state. Human Resources Code ch. 94. It is suggested that the funds are trust funds which cannot be deposited in the state treasury. See Friedman v. American Surety Co. of New York, 151 S.W.2d 570 (Tex. 1941); Manion v. Lockhart, 114 S.W.2d 216 (Tex. 1938).

In our opinion, federal law does not prohibit the deposit of these funds in the state treasury. The law earmarks certain funds for particular purposes but does not establish procedures for handling them. 20 U.S.C. §§ 107b(2), 107d-3(a). See also 45 C.F.R. § 1369. The quoted rider appropriates the funds placed in the treasury. They are available to be used for the purposes specified by federal law, and thus the Commission is required to deposit them in the State Treasury.

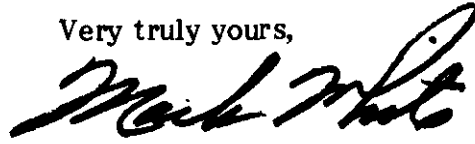
S U M M A R Y

Funds accruing to the Commission for the Blind from the operation of food vending facilities shall be

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deposited in the state treasury as required by rider to the appropriation act.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mark White', with a stylized, cursive script.

MARK WHITE
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